

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

PACIFIC STATES INDUSTRIES, INC.
d/b/a REDWOOD EMPIRE

and

Case 20-CA-31006

UNITED FARM WORKERS OF AMERICA
AFL-CIO

Michael L. Smith, Esq., of San Francisco,
California for the General Counsel

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for the Charging Party

DECISION

Statement of the Case

Mary Miller Cracraft, Administrative Law Judge. The General Counsel alleges that Pacific States Industries, Inc. d/b/a Redwood Empire (Respondent) violated Section 8(a)(1), (3) and (5) of the National Labor Relations Act.¹ Specific allegations of threat, coercion or restraint at issue are whether Respondent told its employees it would not give raises to those employees who supported the United Farm Workers of America (the Union), told employees they could not use the bathroom during work time, surveilled employees' Union activities, directed new employees not to join the Union, directed employees to remove Union buttons from their clothing, and promulgated a new work rule prohibiting employees who supported the Union from using the microwave oven before breaks and lunch.

It is also alleged that Respondent violated Section 8(a)(1) and (3) of the Act by denying a wage increase and Section 8(a)(1), (3), and (5) of the Act by promulgating a rule prohibiting employees from using the microwave oven before breaks and lunch in retaliation for employees Union activities. Finally, the parties stipulated that Respondent began requiring employees in the bargaining unit to purchase their work gloves without first bargaining with the Union. I find this constitutes a unilateral change in terms and conditions of employment in violation of Section 8(a)(1) and (5) of the Act.

¹ Sec. 8 of the National Labor Relations Act, 29 U.S.C. 158, sets forth prohibitions regarding employer conduct. Sec. 8(a)(1) provides that it shall be an unfair labor practice for an employer to threaten, coerce or restrain employees in the exercise of the right, among others, to form, join, or assist labor organizations. Sec. 8(a)(3) prohibits discrimination aimed at encouraging or discouraging membership in a labor organization. Sec. 8(a)(5) proscribes employer refusal to bargain collectively, in good faith, with the representative of its employees.

This case was tried in Santa Rosa, California on May 29, 2003. The Union filed the underlying unfair labor practice charge on December 31, 2002, and the first amended charge on March 28, 2003. The complaint issued on March 28, 2003.

On the entire record, including my observation of the demeanor of the witnesses,² and after considering the briefs filed by counsel for the General Counsel and counsel for the Respondent, I make the following

Findings of Fact

I. Jurisdiction and Labor Organization Status

Respondent, a California corporation, manufactures lumber products at its facilities in Cloverdale and Philo, California, where it annually sells and ships goods valued in excess of \$50,000 directly to points located outside the State of California. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

Background

Respondent has one facility in Philo, California and two facilities in Cloverdale, California: the Asti Road facility and the McCray Road facility. Pursuant to a petition filed by the Union in Case 20-RC-17778, on September 20, 2002, a secret ballot NLRB election was held in the following appropriate unit of employees:

All full-time and regular part-time production and maintenance employees employed by [Respondent] at its 31401 McCray Road and 26800 Asti Road, Cloverdale, California facilities, and at its 8750 Highway 128, Philo, California facility; excluding office clerical employees, sales department employees, forestry department employees, managers, confidential employees, guards and supervisors as defined by the Act.

The Union received a majority of the valid votes counted. Following an objections hearing, on March 5, 2003, the Union was certified pursuant to Section 9(a) of the Act as the exclusive collective-bargaining representative of the unit employees.

The allegations in this case involve the Cloverdale Asti Road facility. Eric Schweikl is the plant manager at the Asti Road facility. Jose Brisceno is production supervisor at the Asti Road facility.

² Credibility resolutions have been made based upon the entire record and all exhibits in this proceeding. Witness demeanor and inherent probability of the testimony have been utilized to assess credibility. Testimony contrary to my findings has been discredited on some occasions because it was in conflict with credited testimony or documents or because it was inherently incredible and unworthy of belief.

On about September 6, 2002, Respondent allegedly told its employees it would not give raises to those who supported the Union in violation of Section 8(a)(1) of the Act and denied a wage increase to its employee Irma Sanchez in violation of Section 8(a)(1) and (3) of the Act.

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Facts

The Conversation

Irma Sanchez, an employee at the Asti Road facility, testified that she spoke to production supervisor Jose Brisceno in September 2002, prior to the election, on the production floor and, "asked him for the raise and because he had said that after three months I could get a raise." Sanchez was wearing a union button at the time. Brisceno replied, according to Sanchez, that he could not give her a raise: "If you want a raise, go ask the union for it, because I gave you the raise when I hired you, and I can't give you another raise." After being shown her affidavit to refresh her recollection, Sanchez recalled the Brisceno further said, "That all of us who supported the union, we weren't going to get a raise because we wanted the union."

Asti Road facility production supervisor Jose Brisceno testified that he does not have authority to grant pay raises. Only the "top office" has such authority, according to Brisceno. Brisceno believed that Irma Sanchez asked him if she could have a pay raise. Brisceno did not recall the date of this conversation or what exactly Sanchez asked. Brisceno did recall that he told Sanchez that he would check into her request. Brisceno testified that he never told Sanchez that she would get a raise and he never promised her a raise. Brisceno specifically denied that he ever told any employee they would not get a pay raise because they supported the union.

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Sanchez' Pay History

Upon being hired by Respondent in April 2002, Irma Sanchez and another new employee, Maria Salud De Magana (Salud), met with production supervisor Jose Brisceno. According to Sanchez, Brisceno told them they would initially be paid \$7.75 per hour. Brisceno also told them that after 90 days they would receive an increase of 50 or 75 cents per hour.

Salud recalled that she and Sanchez met with Brisceno in April 2002. Salud testified that they asked Brisceno if they could get raises. Brisceno responded, according to Salud, yes, possibly at three months after their hire date. Salud did not recall if Brisceno stated a specific amount. Salud agreed that Brisceno never guaranteed or promised a raise in 90 days.

The parties stipulated that Sanchez began her employment on April 23, 2002, at an hourly rate of \$7.48. They further stipulated that Sanchez was given a raise effective July 21,³ 2002, to \$7.70 an hour, and a subsequent raise effective October 28, 2002, to \$7.87 per hour. Finally, effective March 3, 2003, Sanchez was given a raise to \$8.11 per hour. The record reflects that Sanchez' July 2002 raise was part of an overall raise given to many employees.

Sanchez' recollection regarding her wage history was poor. When Sanchez was told that she received a raise effective July 21, 2002, she testified that this raise was a three percent raise given to all employees in response to a group request for a pay raise. This three percent

³ Respondent's payroll records indicate that Sanchez' raise was effective July 22, 2002, rather than the stipulated date, July 21, 2002.

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pay raise, if it occurred, is not alleged as an unfair labor practice. Sanchez could not remember when the group request was made. She thought it was about six months prior to the raise being given. However, the record reflects that Sanchez was not employed by Respondent six months prior to July 21, 2002. Rather, her hire date is about three months prior to July 21, 2002.

On cross-examination, Sanchez testified that the three percent pay raise was given in September. However, the record fails to reflect any pay raise for Sanchez or a group of employees in September 2002. When confronted with her payroll history, Sanchez testified that the pay raise she received in July 2002 was to correct a mistake in her pay. However, she agreed that July 21, 2002, the date of her first pay raise, was about three months after her hire date, April 23, 2002. Upon examination of payroll documents, Sanchez further agreed that the mistake in her pay was corrected on August 28, 2002. She agreed that she also received a pay raise effective October 28, 2002, and a pay raise effective March 3, 2003.

Pay History of Other Employees

Respondent's payroll records indicate that 212 employees received July 2002 pay increases. These increases ranged from 3 percent to 19 percent. The majority of these increases were effective on July 22, 2002. This pay history is set forth in Appendix A, attached hereto. Not every employee received a July 2002 pay increase.⁴ Based upon these records, I find that Respondent gave the majority of employees a merit-based cost-of-living pay increase.

Respondent's payroll records indicate that it hired 11 employees in April 2002. Of the ten employees who remained with Respondent through July 2002, all received a pay raise on July 22, 2002. Six of these raises were three percent raises. The other four varied from seven to fourteen percent raises. Only three of these employees remained in October 2002. These three received another three percent raise on October 28, 2002. This pay history is set forth in Appendix B, attached hereto.

Sanchez' Union Activity and Respondent's Knowledge of that Activity

Sanchez was one of 18 to 22 employees at the Asti Road facility who wore a Union button and cap during the Union campaign. There are about 30 employees at that facility. Sanchez wore these items everyday during the campaign. Sanchez also spoke to fellow employees in favor of the union. Sanchez attended union meetings about once every week. After the election, Sanchez was one of 6 or 7 employees who continued to wear union buttons. There is no evidence that Sanchez was a spokesperson for pro-union employees.

Brisceno agreed that Sanchez wore a union hat prior to the election. Brisceno recalls that since the election was over, about seven or eight employees continue to wear Union buttons and maybe two wear Union hats. Brisceno does not remember whether Irma Sanchez was one of the employees who continued to wear a union button. Brisceno recalls that Jose Buenrostro, Jose Ochoa, Jesus Malagon, and Rubin Cuevas have continued to wear union buttons since the election. Rubin Huevas is one of the two who still wears a Union hat.

⁴ It is not possible to accurately determine which employees did not receive pay increases because the particular payroll records presented do not indicate dates when employment ended.

Credibility Resolution

For different reasons, neither Sanchez nor Brisceno was an especially strong witness. Sanchez provided vivid, detailed testimony of her conversations with Brisceno, albeit with aid from her affidavit. Yet, Sanchez utterly failed to recall her pay rates, her pay raises, and the dates of these raises. Of course, as a current employee testifying against her own economic self-interest, Sanchez is afforded enhanced credibility. *7-Eleven Food Stores*, 257 NLRB 108, 113, n.31 (1981); *Georgia Rug Mill*, 131 NLRB 1304, n.2 (1961), *enfd.* 308 F.2d 89 (5th Cir. 1962). However, current employee status is only one among many factors that may be utilized to determine credibility. *Flexsteel Industries, Inc.*, 316 NLRB 745 (1995) *enfd.* mem. 83 F.3d. 419 (5th Cir. 1996).

Sanchez' credibility is less reliable because she had to consult her NLRB affidavit to refresh her recollection. Sanchez' testimony is also inconsistent with the testimony of Salud regarding whether a 90-day pay increase was automatic or not. Sanchez testified that Brisceno told her and Salud that after 90 days, they would receive an increase of 50 or 75 cents per hour. Salud testified that Brisceno never guaranteed or promised a raise in 90 days. Rather, according to Salud, these employees possibly would get a raise after 90 days.

On the other hand, Brisceno could not recall specific encounters with Sanchez. This is a somewhat credible admission because Brisceno may have spoken to as many as 30 employees each day. Additionally, as discussed at a later point, Brisceno candidly admitted that Respondent changed its policy in providing free gloves to its Asti Road facility employees. Brisceno's honesty about this unilateral change enhances a finding of credibility in his favor.

It is apparent that Sanchez had no recollection regarding her past pay rates or when she had received pay raises. For this reason, it is inherently probable that she did ask Brisceno for a pay raise in September 2002, even though she had received a three percent raise on July 21, 2002. Brisceno agreed that, at some point in time, he had a conversation with Sanchez about a pay raise. Although Brisceno generally denied ever telling any employee that no pay raise would be forthcoming because the employee supported the union, and I credit this denial, I am persuaded, based both on their relative demeanors and on inherent probability, that Sanchez' recollection of the conversation with Brisceno is reliable to a certain extent.

Thus, I find that Brisceno told Sanchez in September 2002, when she asked for a raise, that if she wanted a raise, she should ask the union for it because he had already given her a raise and could not give her another raise. I do not credit Sanchez' testimony, after reading her affidavit to refresh her recollection, that Brisceno added that all employees who supported the union would not receive a pay raise because they supported the union. Not only have I credited Brisceno's denial of this, I also find Sanchez' recollection about this aspect of the testimony was flawed. Moreover, given that there is no evidence that Sanchez was a spokesperson for other employees, the inherent contextual probability of Brisceno addressing Sanchez regarding the fate of all pro-union employees' requests for raises convinces me that this statement was not made. However, "it is no reason for refusing to accept everything that a witness says, because you do not believe all of it; nothing is more common in all kinds of judicial decisions than to believe some and not all." *NLRB v. Universal Camera Corp.*, 179 F.2d 749, 754 (2d Cir. 1950).

One further finding regarding credibility is warranted. Both Salud and Brisceno denied that a 90-day pay increase was automatically given to employees. Respondent's payroll records in evidence confirm their testimony. Accordingly, I find that Respondent did not have a policy of granting 90-day end of probation pay increases.

Analyses and ConclusionsSection 8(a)(1)

5 The statement, which I have credited -- if you want a raise, go ask the union -- is not the statement alleged to violate the Act. However, I find that because the issue of the credited statement's lawfulness is closely related to the allegation in the complaint, that Respondent told its employees it would not give raises to those who supported the union, and because the issue was fully litigated, it may be considered. See, e.g., *Bridgestone/Firestone Inc.*, 332 NLRB 575 (2000) enfd. in relevant part, 47 Fed. Appx. 449, 2002 WL 31060500 (9th Cir. 2002).

10 Of course, in determining the lawfulness of an employer's statement, the economically dependent relationship of employee to employer must be considered. *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 617 (1969). The standard utilized in assessing whether an employer's statement violates Section 8(a)(1) is whether, under the totality of the circumstances, the statement reasonably tends to coerce employees in the exercise of rights guaranteed by
15 Section 7 of the Act. Intent of the speaker is not at issue. *KSM Industries, Inc.*, 336 NLRB No. 7, slip opinion at 1 (Sept. 28, 2001), reconsideration granted in part, 337 NLRB No. 156 (Aug. 1, 2002), citing *Concepts & Designs*, 318 NLRB 948, 954, 955 (1995); *Puritech Industries*, 246 NLRB 618, 622-623 (1979).

20 The statement, "if you want a raise, go ask the union," must, of course, be considered in context. The record indicates that, Sanchez and other employees, regardless of their date of hire, had already received a pay increase in late July 2002. Even if Sanchez mistakenly but sincerely believed that she was entitled to another increase, Brisceno's statement does not
25 indicate that an additional raise for Sanchez would be withheld because of the union or because of employees' union activity.

30 Under these circumstances, I find no reasonable tendency to threaten, restrain, or coerce. See, e.g., *Fox & Jacobs*, 221 NLRB 1159 n.2 (1975)(Board found it unnecessary to determine whether supervisor's statement to employee that if he wanted a raise, he should go talk to the Union about it, was unlawful); *S.E. Nichols, Inc.*, 284 NLRB 556, 591 (1987) enf. granted in relevant part, 862 F.2d 952 (2d Cir. 1988), cert. denied 490 U.S. 1108 (1989) (statement, "Ask the Union to give [you] a raise. If you want a raise, write about [your] hardships to me, I will give it to the Labor Board and the Labor Board will decide whether you can get a
35 raise without my getting any charges," not alleged as an independent violation but as evidence supporting failure to give a raise in retaliation for testifying at an NLRB proceeding); cf. *Lovejoy Industries*, 309 NLRB 1085, 1125 (1992), enfd. 26 F.3d 162 (D.C. Cir. 1994)(employer statement that it is unable to discuss pay raises due to litigation with the union restrains and coerces because it attributes to union the onus for postponement of wage increase); see also, although not binding authority, *RC Aluminum Industries, Inc.*, JD(ATL)-28-02 (May 14, 2002)(statement that employee should ask the union for a raise does not constitute threat of
40 denial of wage increase).

Section 8(a)(1) and (3)

45 In order to prove that Sanchez was denied a pay increase because of her union activity, the General Counsel bears the initial burden of proving by a preponderance of the evidence that it may be inferred that Sanchez' union activity was a motivating factor in failure to give Sanchez a pay increase. Evidence of union activity, employer knowledge of that activity, an adverse employment action, and a link or nexus between the adverse employment action and union
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activity are required to sustain this initial burden. If the General Counsel makes this initial showing, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of Sanchez' union activity. *American Gardens Management Co.*, 338 NLRB No. 76, slip opinion at 2 (Nov. 22, 2002), citing *Taylor & Gaskin, Inc.*, 277 NLRB 563 n.2 (1985), both incorporating *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982).

The record amply supports a finding that Sanchez supported the union; that Respondent, through Brisceno, knew Sanchez supported the union; and that Sanchez was not given a pay increase in September 2002, when she asked for it. Although I have found Brisceno's statement, "If you want a raise, ask the union," does not violate Section 8(a)(1), this statement does provide evidence of animus or a nexus or link between failure to grant Sanchez a wage increase and Sanchez union activity. However, I do not find that failure to grant Sanchez a wage increase in September 2002 constituted an adverse employment action. There is no evidence that Sanchez or any other employee was given a 90-day end of probation wage increase. For this reason, I find that General Counsel has not sustained the initial *Wright Line* burden.

On about October 2002, Respondent allegedly told employees they could not use the bathroom during work time because of their Union activities, in violation of Section 8(a)(1) of the Act. About October 2002, Respondent allegedly created the impression of surveillance of employees' Union activities, in violation of Section 8(a)(1) of the Act.

Facts

In October 2002, according to Irma Sanchez, production supervisor Jose Brisceno yelled at her as she emerged from the bathroom, "Whoa, whoa, whoa, looks like your feet are stuck." Sanchez responded, "Don't yell at me. You can reprimand me or draw my attention to something but you can't yell at me." Jose Brisceno continued, according to Sanchez, "I don't like you, you and your friend, because you guys supported the union." Sanchez responded that Brisceno did not know whether she supported the union or not because her vote was confidential. At some point during this exchange, according to Sanchez, Brisceno told her that she could not use the bathroom during work hours. Sanchez' use of the bathroom was restricted to lunch or break. Prior to this conversation, Sanchez had used the bathroom during work hours.

On a subsequent occasion in January 2003, Sanchez rushed to the bathroom, on an urgent basis, during work hours. Brisceno yelled at her that she could not use the bathroom a second time. After reading her affidavit to refresh her recollection, Sanchez recalled that Brisceno told her that if she was in great need, she should run to the bathroom. Sanchez also recalled after reading her affidavit that Brisceno said, "The ones that want the union will have to submit to the new rules that the company is issuing or giving out."

Sanchez was unaware whether Brisceno told other employees not to use the bathroom during work hours. Sanchez denied that Brisceno said anything to her about getting another employee to cover her job while she used the bathroom. Sanchez explained that in the area where she worked at that time, employees move around freely. It was not necessary, according to Sanchez, to have another employee cover her job when she used the bathroom.

Prior to this conversation, no supervisor had ever told Sanchez that she could not use the bathroom during work hours. Sanchez saw other employees using the bathroom during work time after this conversation. Some of these employees wore union buttons and some did not. Two co-workers, Patricia [last name unknown] and Guillermina Diaz-Guzman, used the

bathroom after this conversation. Sanchez believed that Jose Brisceno saw them using the bathroom during work time -- more than 5 times. Neither Patricia nor Guillermina supported the union campaign. Sanchez recalled that she asked them to come to a union meeting and they said they would not. In addition, Guillermina testified at the NLRB objections hearing in Case 20-RC-17778 on behalf of Respondent.

5 Domingo Gaona began working for Respondent in October 2002. From the beginning of his employment, he used the bathroom during work time without notifying anyone. Then at some point, perhaps late December 2002, Jose Brisceno told Gaona that Gaona could not leave his position to use the bathroom without finding someone to watch his work: "He [Brisceno] said that from then on I couldn't leave my spot alone when I went to use the
10 bathroom."

Brisceno testified that in October he told Irma Sanchez, "not to be leaving her post that often just to go use the restroom." Brisceno testified that he felt that Sanchez was going back and forth all the time. Brisceno told Sanchez if she had to use the bathroom to go ahead but
15 don't make a habit of it. Brisceno did not believe he told Sanchez that she had to ask him for permission to use the bathroom. Brisceno testified that he has spoken to other employees about this too but he could not remember any specific examples. Sanchez was singled out because she was using the bathroom quite a bit more than other employees. There was no other reason. It was a production-based request. In either 2001 or 2002, Brisceno gave a written warning to a
20 grater for using the bathroom too frequently.

Brisceno recalled that since the election, about seven or eight employees continued to wear Union buttons and maybe two wore Union hats. Brisceno testified he did not remember whether Irma Sanchez was one of the employees who continued to wear a union button. Jose
25 Buenrostro, Jose Ochoa, Jesus Moachon, and Rubin Huevas are the employees that Brisceno recalls. Rubin Huevas is one of the two who still wears a Union hat, according to Brisceno. Brisceno agreed that employees talked about the Union in front of him.

In about October or November 2002, Brisceno met with six or eight employees. Brisceno
30 testified that he told them that he had a list from the office and there were a few policies that employees must follow. Brisceno explained to these employees that they could not leave their post to go warm up their food or to use the bathroom without letting him know. Brisceno told the employees that although the policy required that he be notified about the need to use the bathroom, employees did not need to do this because it would be difficult to find him, "I'm all
35 over the plant." According to Brisceno, these were existing policies and did not reflect any change.

Credibility Resolution

40 As with Sanchez' and Brisceno's prior contradiction of each other, I once again note that neither was a particularly credible witness. In this instance, Brisceno agreed that he admonished Sanchez in October 2002 that she was using the bathroom too frequently. Brisceno also agreed that he told a group of employees in October or November 2002 that Respondent's policy required that they inform him when they needed to use the bathroom during work time.
45 Brisceno's testimony is somewhat consistent with that of Domingo Gaona who testified that Brisceno required him to find a replacement for his position when he needed to use the bathroom. Based upon Sanchez' and Brisceno's relative demeanors and the inherent probabilities of these statements, I find that Brisceno told Sanchez in October 2002 that she was using the bathroom too frequently. I discredit Sanchez' testimony that Brisceno said this was
50 because of her union activity. Thus, I discredit Sanchez' testimony that Brisceno said, "I don't

like you, you and your friend, because you guys supported the union." Sanchez' testimony was disjointed and required extensive refreshment by consultation with her affidavit. Moreover, based upon Brisceno's demeanor, I find it implausible that he would have made such a petty, personal remark.

Analyses and Conclusions

I find that by admonishing Sanchez not to use the bathroom so frequently, Respondent did not interfere with, restrain, or coerce employees in the exercise of their Section 7 rights. I further find that Brisceno did not make a statement indicating that he knew how Sanchez had voted in the NLRB election and thus did not create the impression of surveillance of employees' union activities in violation of Section 8(a)(1) of the Act.

On or about October 2, 2002, Respondent allegedly directed new employees not to join the Union, in violation of Section 8(a)(1).

Facts: The Orientation Sessions

Balthazar Ruiz testified he began working for Respondent as a chain puller at the Asti Road facility on October 2, 2002.⁵ According to Ruiz, Jose Brisceno interviewed Ruiz together with Triano Gaona, and Jaime Salcedo on their first day of work. Brisceno discussed work rules and also told the employees that there was a union and they should not get involved with or join the union. The employees made no response at that time, according to Ruiz.

Domingo Gaona⁶ also began working for Respondent in October 2002. At his interview with Brisceno, according to Gaona, Brisceno told him and another new employee, Jaime Salcedo, how to perform their jobs and then said, "That around there the people of the union had come in and for us not to get involved [or join]."⁷ Gaona told Brisceno he would not do so.

Brisceno testified that he always talks to newly hired employees. Brisceno "partly" recalled talking with Balthazar Ruiz when he was first hired. Brisceno did not remember anyone else being there. Brisceno talked mostly about safety and the 90-day probation period. Brisceno testified that he did not usually talk about the union during these meetings. Brisceno did not remember saying anything about the union to Ruiz. Brisceno volunteered that, "If there was a statement made, it would be that the employees, if it was around when the union was voted in, it would be that they might be talking to some officials because there's a union involvement coming in, but that's it, there's nothing else I would." When asked, "After the election, did you typically mention the union . . . at these orientation meetings?" Brisceno responded, "I would say not, I can't say – I don't talk about union so."

Brisceno remembered an orientation session with Domingo Gaona. However Brisceno did not recall whether he mentioned the union to him. Brisceno added that typically the union is not brought up during orientation.

⁵ Respondent's payroll records indicate Ruiz' first rate of pay was effective October 16, 2002.

⁶ Respondent's payroll records indicate that Domingo Gaona's first rate of pay was effective October 15, 2002.

⁷ The court interpreter explained that the Spanish word utilized by Gaona could mean "involved" or "join."

Credibility Resolution

I do not credit Brisceno's denials regarding Ruiz and Gaona's testimony. Brisceno's testimony in this regard was less than forthright, direct, and candid. He did not deny the specific statements attributed to him by Ruiz and Gaona. Rather, Brisceno generally testified that the union would not have come up in the interviews. However, Brisceno equivocated about how the topic of the union might have been mentioned in these interviews.

Section 8(a)(1) Analysis and Conclusion

Section 7 protects the employee right to join or assist labor organizations. An instruction during orientation to not get involved with the union directly interferes with, restrains, and coerces employees in the exercise of their right to join or assist labor organizations. See, e.g., *Roth's IGA Foodliner, Inc.*, 259 NLRB 132 (1981), enfd. mem. 694 F.2d 723 (9th Cir. 1982), cert. denied 460 U.S. 1083 (1983); *Associated Carpenters*, 230 NLRB 1164 (1977). Accordingly, I find that by directing employees not to become involved with or join the union, Respondent interfered with, restrained, and coerced employees in violation of Section 8(a)(1) of the Act.

On or about October 7, 2002, Respondent allegedly directed employees to remove Union buttons from their clothing, in violation of Section 8(a)(1).Facts

On his third day of work, Monday, October 7, 2002, according to Balthazar Ruiz, he found a union button on the floor while he was in the break area around 9 a.m. Ruiz put the button on his shirt. Brisceno approached Ruiz and told Ruiz that Ruiz, "couldn't wear the button there, because if [Larry, another administrator] caught me, he would get mad." Ruiz did not wear the button again.

Brisceno denied that he ever told any employee to remove a union button. Brisceno was educated about what he could and could not say. Brisceno received written information from the top office. He read this material and understood it. The literature said that employees had the right to wear union buttons and hats.

Credibility Resolution

Ruiz was an extremely credible witness. His serious demeanor was impressive. Thus I credit his testimony over Brisceno's denial.

Section 8(a)(1) Analysis

Absent special considerations, Section 7 protects the right of employees to wear union buttons or insignia. See, e.g., *Republic Aviation Corp. v NLRB*, 324 U.S. 793, 803 (1945); *Control Services*, 303 NLRB 481, 485 (1991), enfd. 961 F.2d 1568, 975 F.2d 1551 (3d Cir. 1992). There is no contention that special considerations are present in this case. Based on the above credibility resolution, I find that Respondent directed an employee to remove a union button from his clothing in violation of Section 8(a)(1).

In about November or December 2002, Respondent allegedly told employees that it had promulgated new work rules, including a rule prohibiting employees who supported the Union from using the microwave oven before breaks and lunch, because they supported the Union, in violation of Section 8(a)(1), (3), and (5).

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Facts

When Irma Sanchez began working for Respondent, employees could use the microwave oven to heat up their lunches prior to the beginning of the lunch period. In this way, the ten employees who shared a 30-minute lunch period could all consume their lunches in the allotted time. In about November or December 2002, Sanchez asked Jose Brisceno if she could use the microwave prior to lunch to heat lunches. Brisceno told Sanchez, no, these were the new rules. Brisceno added, "this was coming from above. . . because we had voted for the union." Sanchez did not recall whether Brisceno suggested she have another employee warm her food for her.

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In November 2002, Brisceno testified he told employee Jaime Gaona that he could not leave his post prior to break to use the microwave. Brisceno explained that if Jaime Gaona needed something heated, he could tell another employee, Angel Paredes, to do this. Paredes' workstation is near the microwave. Brisceno did not recall having a conversation with Irma Sanchez about the microwave. From November 2001 to November 2002, Brisceno estimated he probably spoke with 3 or 4 other employees about leaving their workstations to use the microwave.

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As stated before, in about October or November 2002, Brisceno met with six or eight employees. Brisceno testified that he told them that he had a list from the office and there were a few policies that employees must follow. Brisceno explained to these employees that they could not leave their post to go warm up their food or to use the bathroom without letting him know. Brisceno told the employees that although the policy required that he be notified about the need to use the bathroom, employees did not need to do this because it would be difficult to find him, "I'm all over the plant." According to Brisceno, these were existing policies and did not reflect any change.

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Credibility

I credit Brisceno's testimony to the extent that he told employees they could not leave their workstations to use the microwave during work time without letting him know. I also credit Gaona's and Sanchez' testimony that prior to this time, they were allowed to use the microwave during work time. I do not credit Sanchez further testimony that he told her that the rule had come from above because employees voted for the union.

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Analysis and Conclusion

Whether there was a rule about using the microwave prior to November 2002 or not, until then, employees were free to use the microwave during work time. The parties stipulated that since September 20, 2002, the date of the election, Respondent has given no notice to the Union or opportunity to bargain to the Union regarding wages, hours, and terms and conditions of employment. I find that by announcing to employees that they could not use the microwave during work time, Respondent effected a change in terms and conditions of employment without providing the union with notice or an opportunity to bargain in violation of Section 8(a)(1) and (5) of the Act. See, e.g., *Apollo Construction Co.*, 322 NLRB 996, 998 (1997), enfd. 132 F.3d 1483

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(D.C. Cir. 1997)(restrictions of access to shop including no longer allowing employees to use microwave constituted interference, restraint, and coercion). Because I have discredited Sanchez' testimony that Brisceno told her this change was because employees voted for the union and there is no other evidence of nexus to union activity, I do not find a violation of Section 8(a)(3).

5 **At some point between January 2003 and April 2003, Respondent began requiring employees in the Unit to purchase their work gloves in violation of Section 8(a)(1) and (5) of the Act.**

10 The parties stipulated that since September 20, 2002, the date of the election, Respondent has given no notice to the union or opportunity to bargain to the union regarding wages, hours, and terms and conditions of employment.

15 The parties further stipulated that at some point between January 2003 and April 2003 inclusive, Respondent began requiring Asti Road facility employees to purchase their work gloves. During calendar year 2002, employees working at the Asti Road facility did not have to purchase their gloves. Rather, during calendar year 2002, Respondent provided gloves to employees free of charge. Thus, the parties agree that the change in provision of work gloves to Asti Road facility employees constitutes a unilateral change.

20 **Conclusions of Law**

- 25 1. By directing new employees not to join the union and by directing an employee to remove a union button from his clothing, Respondent interfered with, restrained, and coerced employees and has engaged in an unfair labor practice affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.
- 30 2. By announcing to employees that they could not use the microwave during work time without providing the union with notice or an opportunity to bargain regarding this matter, Respondent violated Section 8(a)(1) and (5) of the Act.
- 35 3. By promulgating a rule requiring bargaining unit employees at the Asti Road facility to purchase their work gloves without providing the union with notice or an opportunity to bargain, Respondent violated Section 8(a)(1) and (5) of the Act.

Remedy

40 Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Respondent shall make whole all Asti Road facility unit employees who suffered financial loss as a result of Respondent's unilateral change of its glove policy, to be computed in accordance with *Ogle Protection Service*, 183 NLRB 682 (1970), enf'd. 444 F.2d 502 (6th Cir. 1971), with interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1978). The parties agree that in order to comply with this make whole remedy, the payroll records will reflect which employees purchased gloves after implementation of the unilateral change. The parties further agree that the make whole remedy does not include gloves purchased pursuant to Asti Road facility employee transfers to the sawmill facility. The make whole remedy does not apply to these transfer purchases because employees were always required to purchase gloves pursuant to transfer to the sawmill.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁸

ORDER

The Respondent, Pacific States Industries, Inc. d/b/a Redwood Empire, Cloverdale and Philo, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- a. Interfering with, restraining or coercing employees by directing new employees not to join the union and directing an employee to remove a union button from his clothing.
- b. Failing to bargain with the union regarding a rule prohibiting employee use of the microwave oven during work time.
- c. Failing to bargain with the union about providing work gloves for unit employees at the Asti Road facility.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- a. On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time production and maintenance employees employed by [Respondent] at its 31401 McCray Road and 26800 Asti Road, Cloverdale, California facilities, and at its 8750 Highway 128, Philo, California facility; excluding office clerical employees, sales department employees, forestry department employees, managers, confidential employees, guards and supervisors as defined by the Act.

- b. Make whole all unit employees for any losses incurred by failure to provide Asti Road employees with work gloves in the manner set forth in the remedy section of the decision.
- c. Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such


⁸ If no exceptions are filed as provided by Sec 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

- 5 d. Within 14 days after service by the Region, post at its facilities in Cloverdale and Philo, California, copies of the attached notice marked "Appendix."⁹ Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 2, 2002.
- 10
- 15
- 20 e. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

25 IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated July 21, 2003
San Francisco, California

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Mary Miller Cracraft
Administrative Law Judge

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50 ⁹ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX A
PERCENTAGE JULY 2002 INCREASE

Employee Number	Pre-July Wage	July Increase	Percentage Increase	Date of Increase	Date of Hire
1	\$9.68	\$9.97	3%	7/22/2002	Pre 1/02
4	\$7.58	\$8.11	7%	7/22/2002	4/1/2002
14	\$8.29	\$8.54	3%	7/22/2002	1/23/2002
18	\$12.71	\$13.51	6%	7/22/2002	Pre 1/02
21	\$7.83	\$8.06	3%	7/22/2002	Pre 1/02
24	\$7.48	\$8.11	8%	7/21/2002	Pre 1/02
25	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
27	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
28	\$11.29	\$11.63	3%	7/22/2002	Pre 1/02
30	\$12.98	\$13.37	3%	7/22/2002	Pre 1/02
31	\$7.48	\$7.70	3%	7/22/2002	7/19/2002
37	\$8.45	\$9.79	16%	7/22/2002	Pre 1/02
39	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
40	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
41	\$7.64	\$9.02	18%	7/22/2002	Pre 1/02
45	\$12.37	\$12.74	3%	7/22/2002	Pre 1/02
46	\$11.09	\$11.42	3%	7/22/2002	Pre 1/02
51	\$7.48	\$7.70	3%	7/22/2002	4/8/2002
52	\$7.48	\$8.11	8%	7/22/2002	4/8/2002
53	\$11.45	\$11.79	3%	7/22/2002	Pre 1/02
55	\$7.48	\$7.98	7%	7/22/2002	1/28/2002
58	\$10.25	\$10.56	3%	7/22/2002	Pre 1/02
61	\$13.66	\$14.07	3%	7/21/2002	Pre 1/02
65	\$8.98	\$9.25	3%	7/22/2002	Pre 1/02
67	\$7.58	\$7.81	3%	7/22/2002	Pre 1/02
68	\$10.24	\$12.12	18%	7/22/2002	Pre 1/02
69	\$1,938.46	\$1,996.61	3%	7/29/2002	Pre 1/02
77	\$9.68	\$9.97	3%	7/22/2002	Pre 1/02
78	\$9.15	\$9.45	3%	7/22/2002	Pre 1/02
82	\$7.48	\$7.70	3%	7/22/2002	6/26/2002
84	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
86	\$9.24	\$9.52	3%	7/22/2002	Pre 1/02
87	\$8.95	\$9.22	3%	7/22/2002	Pre 1/02
88	\$8.80	\$9.06	3%	7/22/2002	Pre 1/02
90	\$7.48	\$7.70	3%	7/22/2002	Pre 1/02
93	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
94	\$7.48	\$8.69	16%	7/22/2002	2/18/2002
100	\$7.48	\$7.70	3%	7/22/2002	3/18/2002
108	\$11.54	\$11.87	3%	7/22/2002	Pre 1/02
115	\$9.98	\$10.28	3%	7/22/2002	Pre 1/02
117	\$13.25	\$13.65	3%	7/22/2002	Pre 1/02
129	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
130	\$7.87	\$8.11	3%	7/22/2002	2/19/2002
132	\$7.24	\$8.11	12%	7/22/2002	1/16/2002
139	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
141	\$14.17	\$14.60	3%	7/22/2002	Pre 1/02
148	\$7.48	\$7.70	3%	7/22/2002	Pre 1/02
149	\$12.34	\$12.71	3%	7/22/2002	Pre 1/02
155	\$7.87	\$8.11	3%	7/22/2002	5/29/2002
158	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02

APPENDIX A
PERCENTAGE JULY 2002 INCREASE

160	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
165	\$10.61	\$10.93	3%	7/22/2002	Pre 1/02
167	\$7.48	\$7.70	3%	7/22/2002	6/18/2002
173	\$8.28	\$8.53	3%	7/22/2002	Pre 1/02
175	\$11.90	\$12.26	3%	7/22/2002	Pre 1/02
177	\$10.41	\$10.72	3%	7/22/2002	Pre 1/02
178	\$8.87	\$9.14	3%	7/22/2002	Pre 1/02
181	\$9.71	\$10.00	3%	7/22/2002	Pre 1/02
182	\$8.59	\$8.85	3%	7/22/2002	Pre 1/02
185	\$11.87	\$12.23	3%	7/22/2002	Pre 1/02
186	\$7.58	\$8.95	18%	7/22/2002	Pre 1/02
187	\$10.25	\$10.56	3%	7/22/2002	Pre 1/02
188	\$7.48	\$8.11	8%	7/22/2002	3/12/2002
190	\$14.06	\$14.48	3%	7/22/2002	Pre 1/02
191	\$9.83	\$10.12	3%	7/22/2002	Pre 1/02
196	\$10.40	\$12.00	15%	7/22/2002	Pre 1/02
197	\$10.10	\$10.40	3%	7/22/2002	Pre 1/02
199	\$11.03	\$11.35	3%	7/22/2002	Pre 1/02
200	\$10.17	\$10.48	3%	7/22/2002	Pre 1/02
213	\$7.48	\$8.11	8%	7/22/2002	2/18/2002
215	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
216	\$7.48	\$7.70	3%	7/22/2002	3/18/2002
218	\$7.48	\$7.70	3%	7/22/2002	2/19/2002
220	\$7.87	\$8.11	3%	7/22/2002	1/21/2002
224	\$7.48	\$7.70	3%	7/22/2002	2/19/2002
227	\$7.48	\$7.70	3%	7/22/2002	Pre 1/02
229	\$9.55	\$9.84	3%	7/22/2002	4/4/2002
234	\$7.48	\$7.70	3%	7/22/2002	7/19/2002
235	\$7.87	\$9.37	19%	7/22/2002	2/20/2002
239	\$7.48	\$7.70	3%	7/22/2002	7/15/2002
240	\$9.52	\$9.81	3%	7/22/2002	Pre 1/02
241	\$11.77	\$12.12	3%	7/22/2002	Pre 1/02
244	\$9.98	\$10.28	3%	7/22/2002	Pre 1/02
261	\$8.30	\$8.55	3%	7/22/2002	Pre 1/02
264	\$10.54	\$10.86	3%	7/22/2002	Pre 1/02
265	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
266	\$10.25	\$10.56	3%	7/22/2002	Pre 1/02
267	\$14.03	\$14.46	3%	7/22/2002	Pre 1/02
269	\$7.58	\$7.81	3%	7/22/2002	6/21/2002
271	\$8.90	\$9.17	3%	7/22/2002	Pre 1/02
272	\$17.53	\$18.06	3%	7/22/2002	Pre 1/02
273	\$2,139.23	\$2,203.41	3%	7/29/2002	Pre 1/02
274	\$16.00	\$16.48	3%	7/22/2002	Pre 1/02
275	\$7.58	\$8.11	7%	7/22/2002	3/27/2002
277	\$15.44	\$15.90	3%	7/22/2002	Pre 1/02
281	\$12.32	\$12.67	3%	7/22/2002	Pre 1/02
284	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
285	\$7.87	\$8.11	3%	7/22/2002	7/8/2002
288	\$7.64	\$7.87	3%	7/22/2002	2/8/2002
292	\$9.46	\$9.74	3%	7/22/2002	2/25/2002
296	\$11.93	\$12.29	3%	7/22/2002	Pre 1/02
300	\$12.68	\$13.49	6%	7/22/2002	Pre 1/02

APPENDIX A
PERCENTAGE JULY 2002 INCREASE

310	\$14.56	\$15.00	3%	7/22/2002	Pre 1/02
311	\$14.56	\$15.00	3%	7/22/2002	Pre 1/02
312	\$16.93	\$17.44	3%	7/22/2002	Pre 1/02
314	\$8.11	\$8.95	10%	7/22/2002	Pre 1/02
316	\$8.50	\$8.76	3%	7/22/2002	3/1/2002
317	\$9.40	\$10.52	12%	7/22/2002	Pre 1/02
322	\$7.17	\$8.11	13%	7/22/2002	Pre 1/02
323	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
331	\$7.48	\$7.70	3%	7/22/2002	4/11/2002
333	\$10.96	\$11.29	3%	7/22/2002	5/20/2002
337	\$10.21	\$10.52	3%	7/22/2002	Pre 1/02
339	\$12.88	\$13.27	3%	7/22/2002	Pre 1/02
343	\$16.09	\$16.57	3%	7/22/2002	5/1/2002
345	\$14.55	\$14.99	3%	7/22/2002	Pre 1/02
350	\$7.64	\$7.87	3%	7/22/2002	6/24/2002
353	\$13.86	\$14.28	3%	7/22/2002	Pre 1/02
362	\$7.87	\$9.00	14%	7/22/2002	Pre 1/02
365	\$13.55	\$13.96	3%	7/22/2002	Pre 1/02
367	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
372	\$14.03	\$14.45	3%	7/22/2002	Pre 1/02
373	\$7.24	\$7.46	3%	7/22/2002	6/7/2002
377	\$11.82	\$12.17	3%	7/22/2002	Pre 1/02
378	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
379	\$12.89	\$13.28	3%	7/22/2002	Pre 1/02
381	\$14.78	\$15.22	3%	7/22/2002	Pre 1/02
384	\$7.58	\$7.81	3%	7/22/2002	Pre 1/02
385	\$14.48	\$14.91	3%	7/22/2002	Pre 1/02
388	\$7.87	\$8.97	14%	7/22/2002	4/8/2002
390	\$7.58	\$7.81	3%	7/22/2002	Pre 1/02
391	\$9.68	\$9.97	3%	7/22/2002	Pre 1/02
398	\$7.48	\$7.70	3%	7/22/2002	Pre 1/02
399	\$9.68	\$9.97	3%	7/22/2002	Pre 1/02
400	\$7.87	\$8.14	3%	7/22/2002	Pre 1/02
403	\$9.38	\$9.66	3%	7/22/2002	Pre 1/02
404	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
407	\$10.82	\$11.14	3%	7/22/2002	Pre 1/02
408	\$13.96	\$14.38	3%	7/22/2002	Pre 1/02
412	\$11.52	\$11.87	3%	7/22/2002	Pre 1/02
414	\$9.98	\$10.28	3%	7/22/2002	Pre 1/02
415	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
420	\$8.83	\$9.09	3%	7/22/2002	3/28/2002
421	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
425	\$14.56	\$15.00	3%	7/22/2002	Pre 1/02
428	\$9.98	\$10.28	3%	7/22/2002	7/18/2002
430	\$8.32	\$8.62	4%	7/22/2002	Pre 1/02
431	\$13.55	\$13.96	3%	7/22/2002	6/6/2002
432	\$16.15	\$16.63	3%	7/22/2002	Pre 1/02
439	\$11.63	\$11.98	3%	7/22/2002	Pre 1/02
440	\$7.48	\$7.70	3%	7/22/2002	7/17/2002
441	\$8.55	\$8.81	3%	7/22/2002	Pre 1/02
444	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
445	\$8.20	\$8.45	3%	7/22/2002	Pre 1/02

APPENDIX A
PERCENTAGE JULY 2002 INCREASE

446	\$14.48	\$14.92	3%	7/22/2002	Pre 1/02
453	\$7.48	\$7.87	5%	7/22/2002	6/21/2002
462	\$10.25	\$10.56	3%	7/22/2002	Pre 1/02
464	\$12.56	\$12.94	3%	7/22/2002	7/8/2002
469	\$10.86	\$11.19	3%	7/22/2002	Pre 1/02
471	\$9.58	\$9.87	3%	7/22/2002	Pre 1/02
473	\$8.39	\$8.64	3%	7/22/2002	2/5/2002
474	\$8.17	\$8.42	3%	7/22/2002	Pre 1/02
475	\$7.58	\$7.81	3%	7/22/2002	6/24/2002
477	\$7.58	\$8.22	8%	7/22/2002	Pre 1/02
478	\$9.50	\$9.79	3%	7/22/2002	6/18/2002
480	\$2,769.23	\$2,852.31	3%	7/29/2002	Pre 1/02
481	\$14.56	\$15.00	3%	7/22/2002	Pre 1/02
483	\$7.48	\$8.11	8%	7/22/2002	7/18/2002
484	\$7.48	\$7.70	3%	7/22/2002	7/16/2002
485	\$8.51	\$8.77	3%	7/22/2002	Pre 1/02
489	\$7.48	\$7.70	3%	7/22/2002	4/23/2002
492	\$10.36	\$10.67	3%	7/22/2002	Pre 1/02
497	\$7.48	\$7.70	3%	7/22/2002	4/23/2002
499	\$10.75	\$11.07	3%	7/22/2002	Pre 1/02
501	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
502	\$7.58	\$8.11	7%	7/22/2002	4/23/2002
508	\$9.71	\$10.00	3%	7/22/2002	Pre 1/02
509	\$12.84	\$13.23	3%	7/22/2002	Pre 1/02
512	\$7.48	\$7.70	3%	7/22/2002	6/3/2002
513	\$9.06	\$9.33	3%	7/22/2002	Pre 1/02
514	\$13.00	\$13.39	3%	7/22/2002	Pre 1/02
516	\$16.27	\$16.76	3%	7/22/2002	Pre 1/02
519	\$2,376.69	\$2,448.23	3%	7/29/2002	Pre 1/02
522	\$18.87	\$19.44	3%	7/22/2002	Pre 1/02
527	\$10.55	\$10.87	3%	7/22/2002	Pre 1/02
530	\$11.35	\$12.23	8%	7/22/2003	Pre 1/02
534	\$13.52	\$13.93	3%	7/22/2002	Pre 1/02
535	\$7.87	\$9.40	19%	7/22/2002	2/25/2002
538	\$13.34	\$13.74	3%	7/22/2002	Pre 1/02
543	\$16.50	\$17.00	3%	7/22/2002	Pre 1/02
545	\$10.15	\$10.45	3%	7/22/2002	Pre 1/02
549	\$7.59	\$8.11	7%	7/22/2002	Pre 1/02
553	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
555	\$7.24	\$7.87	9%	7/22/2002	Pre 1/02
558	\$10.25	\$10.56	3%	7/22/2002	Pre 1/02
559	\$14.48	\$14.91	3%	7/22/2002	Pre 1/02
561	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
562	\$11.82	\$12.17	3%	7/22/2002	Pre 1/02
563	\$12.15	\$12.51	3%	7/22/2002	Pre 1/02
566	\$15.00	\$15.45	3%	7/22/2002	5/29/2002
570	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
572	\$7.87	\$8.11	3%	7/22/2002	2/27/2002
573	\$8.52	\$8.78	3%	7/22/2002	1/23/2002
575	\$7.48	\$7.70	3%	7/22/2002	2/19/2002
578	\$7.87	\$8.62	10%	7/22/2002	Pre 1/02
579	\$12.37	\$12.74	3%	7/22/2002	Pre 1/02

APPENDIX A

PERCENTAGE JULY 2002 INCREASE

581	\$7.87	\$8.11	3%	7/22/2002	2/19/2002
582	\$15.44	\$15.90	3%	7/22/2002	Pre 1/02
583	\$9.58	\$10.35	8%	7/22/2002	Pre 1/02
587	\$7.87	\$8.11	3%	7/22/2002	Pre 1/02
589	\$8.40	\$8.65	3%	7/22/2002	Pre 1/02

APPENDIX B
PAY HISTORY OF APRIL 2002 HIREES

Employee Number	Starting Wage	Date of First Increase	Increased Wage Amount	Date of Second Increase	Increased Wage Amount
4	\$7.58	7/22	\$8.11	n/a	
51	\$7.48	7/22	\$7.70	n/a	
52	\$7.48	7/22	\$8.11	n/a	
229	\$9.55	7/22	\$9.84	n/a	
331	\$7.48	7/22	\$7.70	10/28	\$7.87
388	\$7.87	7/22	\$8.97	n/a	
489	\$7.48	7/22	\$7.70	10/28	\$7.87
497	\$7.48	7/22	\$7.70	10/28	\$7.87
500	\$7.87	8/7	\$8.11	n/a	
502	\$7.58	7/22	\$8.11	n/a	

APPENDIX C

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT direct any of you to remove a United Farm Workers of America button you're your clothing.

WE WILL NOT fail and refuse to bargain with the union about use of the microwave oven during work time and provision of work gloves to Asti Road Facility employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time production and maintenance employees employed by [Respondent] at its 31401 McCray Road and 26800 Asti Road, Cloverdale, California facilities, and at its 8750 Highway 128, Philo, California facility; excluding office clerical employees, sales department employees, forestry department employees, managers, confidential employees, guards and supervisors as defined by the Act.

WE WILL make Asti Road facility employees whole for any losses resulting from our failure to bargain with the union about provision of work gloves, plus interest.

PACIFIC STATES INDUSTRIES, INC.
d/b/a REDWOOD EMPIRE

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

901 Market Street, Suite 400, San Francisco, CA 94103-1735

(415) 356-5130, Hours: 8:30 a.m. to 5 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (415) 356-5139.

